

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8630 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SYNBIOTICS LTD.

Versus

UNION OF INDIA

Appearance:

MS FALGUNI M JOSHI for Petitioners
MR AKSHAY H MEHTA for Respondents

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

Date of decision: 02/11/1999

ORAL JUDGEMENT

Rule, service of which is waived by learned counsel Mr Akshay Mehta for the respondents. Since the directions sought to be given are covered by our earlier decisions for expeditious disposal of the stay applications, upon joint request, the matter is taken up for final hearing today itself.

The appeal is pending at the instance of the petitioner. Not only that, along with the appeals, stay applications are also pending. Pending hearing and disposal of stay applications filed by the petitioner, the allegation is that the Superintendent, visited the unit and threatened to initiate coercive action for recovery of the demand confirmed by the order dated 22nd December, 1998. In other words, without hearing the stay applications submitted by the petitioners during the pendency of the appeal the Department has sought to make coercive recovery, which is not in dispute as such. It is also not in dispute that in many such similar matters, this Court has time and again taken the view that the stay application should be decided first and until it is determined, obviously, no coercive action should be initiated against the assessee.

In view of the aforesaid undisputed facts and our earlier decisions, respondent No.2 is directed to dispose of the stay applications pending appeal within a period of six weeks from the date of receipt of the order of this Court and no coercive measures shall be taken by the respondent authorities until the stay applications are decided on merits. Rule is made absolute to that extent, without any order as to costs.

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(vjn)